UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

December 7, 2022

Mr.David Wilkins
President
Cobb Industrial Fabricators
4285 McEver Industrial Dr. NW
Acworth, Georgia 30101

SUBJECT: Cedartown Municipal Landfill Superfund Site
Cedartown, Polk County, Georgia

Dear Mr. Wilkins:

I am writing in response to your request for a status letter regarding the Cedartown Municipal Landfill Superfund Site (the "Site"), located west of N. Tenth Street and north of Prior Station Road, Polk County, Georgia (see Figure 1). More particularly, this status letter is provided to you as the prospective purchaser of approximately fourteen acres of land (hereafter the "Property"), as shown on Figures 2 and 3. Approximately ten acres of those fourteen acres are located on tax parcel number 024-007 (shown on Figure 4) and consequently within the footprint of the Cedartown Municipal Landfill Superfund Site (hereafter the "Site").

The purpose of this comfort/status letter is to provide you with information that may be relevant to the potential Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability concerns you have identified at the Property and summarize the relevant information available to EPA about the Site as of the date of this letter. We hope this information will enable you to make informed decisions as you move forward with your plans regarding the Property.

Under CERCLA (commonly referred to as Superfund),[1] the Agency's mission is to protect human health and the environment from risks posed by exposure to contaminated or potentially contaminated land, water, and other media. A Superfund cleanup can help return properties to productive reuse. We are providing this letter consistent with the Agency's 2019 Comfort/Status letter policy.[2]

Property Status

Interested parties can find information on sites that are, or potentially are, contaminated and may warrant action under Superfund, including site-specific documents and fact sheets, in the Superfund Enterprise Management System (SEMS).[3] SEMS provides information on (1) whether a National Priorities List (NPL) site is proposed, final, or deleted, (2) sites subject to a federal remedial or removal

[1] 42 U.S.C. §§ 9601, *et seq.*
[2] *See 2019 Policy on the Issuance of Superfund Comfort/Status Letters* (Aug. 21, 2019), available on the Agency's website at https://www.epa.gov/enforcement/comfortstatus-letters-guidance.
[3] SEMS is available at: https://cumulis.epa.gov/supercpad/cursites/srchsites.cfm.

action, and (3) sites with a Superfund Alternative Approach agreement.[4] The Cedartown Muncipal Landfill Site is identified in SEMS. Information on the Site can also be found at https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0401660

The subject Property is partially situated within the Site. The Site was listed on the NPL in March 1989 but was deleted from the NPL in March 1999.

Despite the Site being deleted from the NPL, the Agency has implemented a cleanup remedy at the Site leaving waste in place and groundwater monitoring and periodic five-year reviews are ongoing. For these reasons, EPA continues to remain involved with addressing the Site under Superfund remedial authority.

History and Status of the Site

The Site is located west of North Tenth Street and north of Prior Station Road in Cedartown, Polk County, Georgia. The Site is approximately 94 acres.

The Site includes the area where an iron ore strip mine and later a municipal landfill operated. Mining operations began in the 1880s. Landfill operations began by 1960 and included disposal of municipal and industrial wastes in open pits leftover from the mining operation. Records as to the sequence of development of the landfill are not available. However, an interim interpretation of aerial photographs of the Site, conducted by the EPA Environmental Monitoring Systems Laboratory suggested the following outline of the Site's development:

- 1960 – approximately 4 acres of fill material existed on the eastern section of the Site with three areas of debris located north and east of the fill area;
- 1966 – approximately 19 acres of fill material existed, and landfilling activities were concentrated in the northern part of the Site;
- 1972 – approximately 63 acres of fill material existed, and landfilling activities were proceeding in a southerly direction along the western perimeter of the Site.
- 1980 – approximately 90 acres of fill material existed, and the area was graded and partially revegetated.
- 1985 – no expansion of landfilling activities was observed, and fill areas had been revegetated.

Landfill operators closed the landfill with a layer of clay and a vegetative cover when operations ended in 1979. Site activities contaminated groundwater with metals and left waste in place.

The Site currently includes the covered landfill areas and associated groundwater monitoring system. Much of the Site is wooded. The Cedartown public works department and additional businesses are in the eastern portion of the Site, along Tenth Street. Features associated with the Cedartown public works department include an equipment storage and maintenance building, a trailer, parking areas and grassed areas. Additional buildings associated with the businesses are located to the northeast and southeast. Although the perimeter of the Site is not fenced, access is limited due to dense vegetation around the northern, western, and southern boundaries. The primary access route is from the east.

[4] See *Transmittal of Updated Superfund Response and Settlement Approach for Sites Using the Superfund Alternative Approach (SAA Guidance)* (Sept. 28, 2012): https://www.epa.gov/enforcement/transmittal-memo-updated-superfund-response-and-settlement-approach-sites-using

Nearby residences and businesses are served by the municipal water supply, which the city of Cedartown sources from Cedar Spring, located up-gradient of the Site. The 1993 Superfund Record of Decision (ROD) for the Site indicated that two private wells were located within one mile of the Site. One of the private wells is down-gradient of the Site and the other is cross-gradient. Neither well is used for potable purposes. The down-gradient well is over 200 feet deep and installed in a different geologic formation (the Knox formation) and is not expected to be affected by site-related contamination. Institutional Controls, as discussed further below, are currently in place that restrict installation of private wells.

Response Actions
In 1979, the city closed the landfill in accordance with applicable state regulations in effect at that time. The landfill's cover consisted of a clay layer varying in thickness from one to 12 feet, and a vegetative cover. The final extent of the cover was not documented at that time.

The responsible parties conducted a Remedial Investigation/Feasibility Study (RI/FS) between 1990 and 1993 pursuant to a 1990 Administrative Order on Consent (AOC) issued by the EPA. The RI/FS delineated the maximum limits of waste disposal using historical aerial photographs, discussions with current and former city employees and data from boring installation. The RI/FS found that placement of waste materials was not uniform across the landfill. Only 11 of 30 boreholes advanced within suspected waste areas encountered waste materials. When encountered, waste materials were found to range from 1-foot thick to 30-feet thick. Figure 5, taken from the Fifth Five Year Review for the Site, dated September 7, 2021, shows the borehole locations and highlights those boreholes that found waste. Figure 6 from the June 1992 Remedial Investigation Report is also provided here, as it should be noted that a borehole location in the southwest part of Area 1 was inadvertently left off of Figure 4 (the RI Report also notes in its text that additional boreholes were advanced in the vicinity of two locations; however, Figures 4 and 5 only show one borehole per location;, i.e., the additional boreholes at those two locations are not shown on Figures 4 and 5).

Figure 7 shows the areas where mining activities likely occurred. These areas are located where subsequent landfilling activities may also have occurred.

Remedy Selection
The EPA selected a remedy for the Site in the 1993 ROD and modified the remedy with a 1998 Amended ROD (AROD). The EPA also issued an Explanation of Significant Differences (ESD) in 1996 to modify the performance standard for manganese in groundwater. The 1993 ROD did not define specific remedial action objectives (RAOs), but it clarified that the purpose of the remedial action is to prevent current and future exposure to the landfill wastes and contaminated groundwater, and to reduce the migration of contaminants.

The Site's remedy, as modified by the 1998 AROD, includes:
• Institutional controls to restrict groundwater use beneath and immediately surrounding the Site.
• Maintenance of the landfill cover.

The 1993 ROD also required institutional controls to prevent development that would disturb or adversely change existing site conditions. The 1993 ROD originally required groundwater and surface water monitoring to evaluate natural attenuation processes, as well as a contingency remedy for groundwater extraction and treatment. The 1998 AROD removed the monitoring requirements and

contingency remedy because groundwater contamination levels for all contaminants of concern (COCs), except manganese, were below performance standards for two and a half years. Manganese concentrations in groundwater had remained stable and did not appear to be related to the landfill.

Performance Standards

The following table identifies the groundwater performance standards that were established for five site contaminants, as set forth in the 1993 ROD and modified by the 1996 ESD:

COC	Performance Standard (µg/L)	Basis
Beryllium	4	MCL
Cadmium	5	MCL
Chromium	100	MCL
Lead	15	EPA action level[a]
Manganese	840[b]	risk-based

Notes:

a) EPA action level from the Lead and Copper Rule, 56 FR, June 7, 1991.

b) The 1996 ESD changed the manganese performance standard from 175 µg/L to 840 µg/L, based on updates to manganese toxicity values.

µg/L = micrograms per liter

MCL = federal maximum contaminant level

Source is Table 6-4, 1993 ROD and 1996 ESD

2021 Groundwater and Surface Water Sampling

In April 2021, the City of Cedartown conducted groundwater and surface water sampling at the Site. Monitoring wells OW-3, OW-4, OW-6B, LW-6 and CL-08-WT and surface water locations SW-2 and SW-3 were sampled during the 2021 event. Figure 8 shows these sampling locations. Several locations sampled in 2016 could not be sampled in 2021: monitoring well LW-2 was damaged by significant vegetation, monitoring well LW-3 was fully submerged, while surface water location SW-1 was dry. The 2021 groundwater and surface water sampling results can be found in the 2021 Report of Natural Attenuation Monitoring, dated June 22, 2021 (see Table 2 of Appendix 2). That report is included as Appendix H of the Fifth Five Year Review for the Cedartown Municipal Landfill Superfund Site, dated September 7, 2021.

For groundwater, the 2021 results showed only lead and manganese above their performance standards. Lead was found in well sample CL-08-WT at a level of 21.7 micrograms per liter (µg/L). In 1991, lead had been found in this well at 92 µg/L. Wells OW-3, OW-4, LW-6 and CL-08-WT also found levels of manganese above its performance standard; however, the EPA has determined that manganese is not attributable to the Site. Several other constituents for which performance standards were not established were also detected in the groundwater samples. These results were all below Georgia's media target concentrations except for benzene in monitoring well LW-6 at a level of 6.6 µg/L (for which the drinking water standard is 5 µg/L).

For surface water, the 2021 results showed VOCs, SVOCs, pesticides, PCBs and cyanide were not detected above laboratory reporting limits in either of the two surface water samples (SW-2 and SW-3) collected. In addition, except for manganese, none of the COCs in groundwater (beryllium, cadmium, chromium lead and manganese) were detected above reporting limits in surface water. Manganese was

detected in SW-2 at 148 µg/L and in SW-3 at 5,630 µg/L. The Site's decision documents did not require a remedial action for surface water; therefore, decision documents did not establish surface water performance standards. The manganese concentrations at both locations, however, were above the federal ambient water quality criteria for human health (50 µg/L and 100 µg/L) as well as the 2018 EPA Region 4 ecological surface water chronic screening value (93 µg/L). The EPA previously determined that manganese is not related to waste disposal activities at the Site.

EPIC Photo Analysis
As we discussed on our virtual call held November 2, 2022, an interim photo analysis, dated February 1987, was conducted on aerial photos of the Site. The interim report has been digitized; however, the oversize photos have not been digitized to date. A request has been made to locate the oversize photos and if available, digitize them. When available, both the interim report and photos may provide additional useful information to you.

Institutional Control (IC) Review
The 1998 AROD required institutional controls to prevent groundwater use in the areas where performance standards are exceeded. An institutional control in the form of a city ordinance restricting installation of wells is currently in effect and is preventing use of contaminated groundwater. See Cedartown Code of Ordinances, Sec. 50-80 available at:
https://library.municode.com/ga/cedartown/codes/code_of_ordinances?nodeId=PTIICOOR_CH50HESA_ARTIVWECILA_S50-80NONEWEAU

The 1993 ROD originally required institutional controls to prevent development that would disturb or adversely change existing site conditions. The Site consists of portions of seven parcels (see Figure 5).

The city zoned the Site for industrial use (Ind-H), effective June 2011. Note that this designation differs from the zoning designation identified in the 2011 and 2016 Five Year Review reports. The previous FYRs noted that the Site is zoned in a special use district (SU-1). Recent correspondence with the city zoning officer indicated that the Site is only bound to the Ind-H zoning restrictions.

In 1995, the city recorded an affidavit with Polk County (Polk County Deed Book 517, Page 665) that affects the deeds to those parcels with evidence of waste (018-033A, 024-007 and 024-010A) as well as the Coke Pond parcel (024-005A). The Property appears to include a portion of 024-007. The affidavit provides notice that the properties are listed on the state's hazardous site inventory and that interested parties should contact the property owner or Georgia EPD for more information. The city of Cedartown subsequently purchased the properties with evidence of waste, and the Coke Pond parcel, between 1996 and 1998. Neither the 1995 affidavit nor deeds for the affected properties include land use or groundwater use restrictions; however, they serve as an informational control for current and future property owners.

Reuse of the Property

Based on the information provided to EPA Region 4 via email and on the virtual call held November 2, 2022, the Region understands that you intend to purchase the Property for the purpose of constructing three buildings that will be used for steel manufacturing, with present plans calling for the production of water clarifiers. As of the date of this letter and based upon the facts presently known, the EPA has not identified any obvious incompatibility between your planned future use of this Property, as you have described it to us, and the EPA's selected cleanup remedy.

The EPA cannot approve any specific use of the Property. It is your sole responsibility to ensure that your use of the Property does not interfere with or impede the selected cleanup remedy, future Site activities (e.g., periodic groundwater monitoring and five-year reviews conducted by the EPA) or interfere with any institutional controls in place now (or identified in the future), or further contribute to contamination at the Site. As your plans develop further, please continue to discuss the development with us. The EPA recommends that you consult with your own legal counsel and environmental professional to ensure that your proposed reuse will not affect the EPA's cleanup response.

CERCLA's Bona Fide Prospective Purchaser Liability Protection

The EPA is providing you with information regarding the bona fide prospective purchaser (BFPP) provision of CERCLA. Congress amended CERCLA in 2002 to exempt certain parties who buy contaminated or potentially contaminated properties from CERCLA liability if they qualify as BFPPs. The BFPP provision provides that a person meeting the criteria of CERCLA §§ 101(40) and 107(r)(1), and who purchases the property after January 11, 2002, will not be liable as an owner or operator under CERCLA. The statutory definition of a BFPP also includes a party who acquires a leasehold interest in a property after January 11, 2002, where the leasehold is not designed to avoid liability and the interested party meets certain conditions and criteria.

A key advantage of the BFPP provision is that it is self-implementing; therefore, the Agency is not involved in determining whether a party qualifies for BFPP status. A party, on its own, can achieve and maintain status as a BFPP, which provides statutory protection from CERCLA liability, without entering into an agreement with EPA, so long as that party meets the threshold criteria and continuing obligations identified in the statute.[5]

Based upon your representation of your situation, the BFPP provision may apply. Note that a court, rather than EPA, ultimately determines whether a landowner has met the criteria for BFPP status. Thus, EPA recommends that you consult with your legal counsel to assess whether you satisfy each of the statutory requirements necessary to achieve and maintain BFPP status.

Reasonable Steps

Among other criteria outlined in CERCLA, a BFPP must take "reasonable steps" to stop continuing releases, prevent threatened future releases, and prevent or limit human, environmental, or natural resources exposure to any previously released hazardous substances as required by CERCLA § 101(40)(B)(iv). This requirement is explored further in the Common Elements Guidance.[6]

By making the BFPP Exemption subject to the obligation to take "reasonable steps," EPA believes Congress intended to protect certain landowners from CERCLA liability while at the same time recognizing that these landowners should act reasonably, in conjunction with other authorized parties, in protecting human health and the environment. As noted above, the Agency has implemented a cleanup remedy at the Site leaving waste in place and groundwater monitoring and periodic five-year reviews are ongoing and thus the Agency has identified several environmental concerns. Based on the information

[5] See EPA's *Enforcement Discretion Guidance Regarding Statutory Criteria for Those Who May Qualify as CERCLA Bona Fide Prospective Purchasers, Contiguous Property Owners, or Innocent Landowners* ("Common Elements Guidance") (Office of Enforcement and Compliance Assurance, July 29, 2019) available on the Agency's website at https://www.epa.gov/enforcement/common-elements-guidance

[6] *Id. (See Footnote 5)*

we have evaluated; we believe that the following may be reasonable steps related to the contamination found at the Site:

1. Provide timely notice to the EPA if additional contamination is discovered;

2. Contact the EPA prior to undertaking construction activities on the Property which includes excavation or soil-disturbing activities;

3. Provide access to the Property at all reasonable times and cooperate with the EPA for the purpose of conducting monitoring and, if required, response actions;

4. Refrain from using the Property in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of any past or future response actions performed at the Site;

5. Refrain from excavating below the groundwater level;

6. Comply with any land or groundwater use restrictions established in connection with the remedial action;

7. Prohibit the installation of public or private groundwater wells on the Property for irrigation or consumption purposes (note that the municipal ordinances may contain additional well installation and/or groundwater use restrictions);

8. Do not disturb the integrity of the existing groundwater monitoring well network, which includes three monitoring wells in the vicinity of the planned construction on the Property: CL-03-WP, OW-3, and LW-3 (See Figure 8); and,

9. Upon request by the EPA, implement any and all institutional controls (ICs) on the Property that may be required as part of the selected remedial action(s).

Any reasonable steps suggested by the EPA are based on the nature and extent of contamination currently known to the Agency and are provided as a guide to help you as you seek to reuse the Property. Because a final determination about which steps are reasonable would be made by a court rather than the EPA, and because additional reasonable steps may later be necessary based on site conditions, this list of reasonable steps is not exhaustive. You should continue to identify reasonable steps based on your observation and judgment and take appropriate action to implement any reasonable step whether or not the EPA regional staff have identified any such steps.[7] We recommend that you consult with your environmental professional and legal counsel to ensure that you take the reasonable steps necessary with respect to any hazardous substance contamination.

[7] CERCLA § 101(40)(B)(iv) provides that "The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to (i) stop any continuing release; (ii) prevent any threatened future releases; and (iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance."

Superfund Lien

EPA has not filed a notice of lien pursuant to CERCLA § $10^{7}(l)(3)$ on the Property. Generally, the Agency will not file a notice of lien on property owned by a non-liable party.

State Actions

EPA can only provide you with information about federal Superfund actions at the Site, federal law and regulations, and EPA guidance. For information about potential state actions and liability issues, please contact Ms. Amy Potter of the Georgia Environmental Protection Division at amy.potter@dnr.ga.gov.

Conclusion

The EPA remains dedicated to facilitating the clean up and reuse of contaminated properties and hopes the information contained in this letter is useful to you. Please note that the letter does not offer conclusive statements about Site conditions or liability. You may find it helpful to consult your own environmental professional, legal counsel, and state or local environmental protection agency before taking any action to acquire, clean up, or redevelop the Property. These consultations may help you obtain a greater level of comfort about the compatibility of the proposed use of the Property and ensure compliance with any applicable federal, state, or local laws or requirements. If you have any questions please do not hesitate to email me at farrier.brian@epa.gov, or have your attorney call Ms. Lisa Ellis, Associate Regional Counsel, EPA Region 4, at (404) 562-9541 or via email at ellis.lisa@epa.gov.

Sincerely,
BRIAN FARRIER
Digitally signed by BRIAN FARRIER
Date: 2022.12.07 08:47:06 -05'00'

Brian G. Farrier
Remedial Project Manager
EPA Region 4
Superfund & Emergency Management Division
Sustainability & Restoration Branch
Sustainability & Restoration Section

cc: Amy Potter, GAEPD
Rhelyn Finch, Land Revitalization Legal Coordinator, EPA Region 4
Lisa Ellis, Site Attorney, EPA Region 4
Edward Guzman, Cedartown City Manager
Chris Thomas, Development Authority of Polk County

Figure 1: Site Location

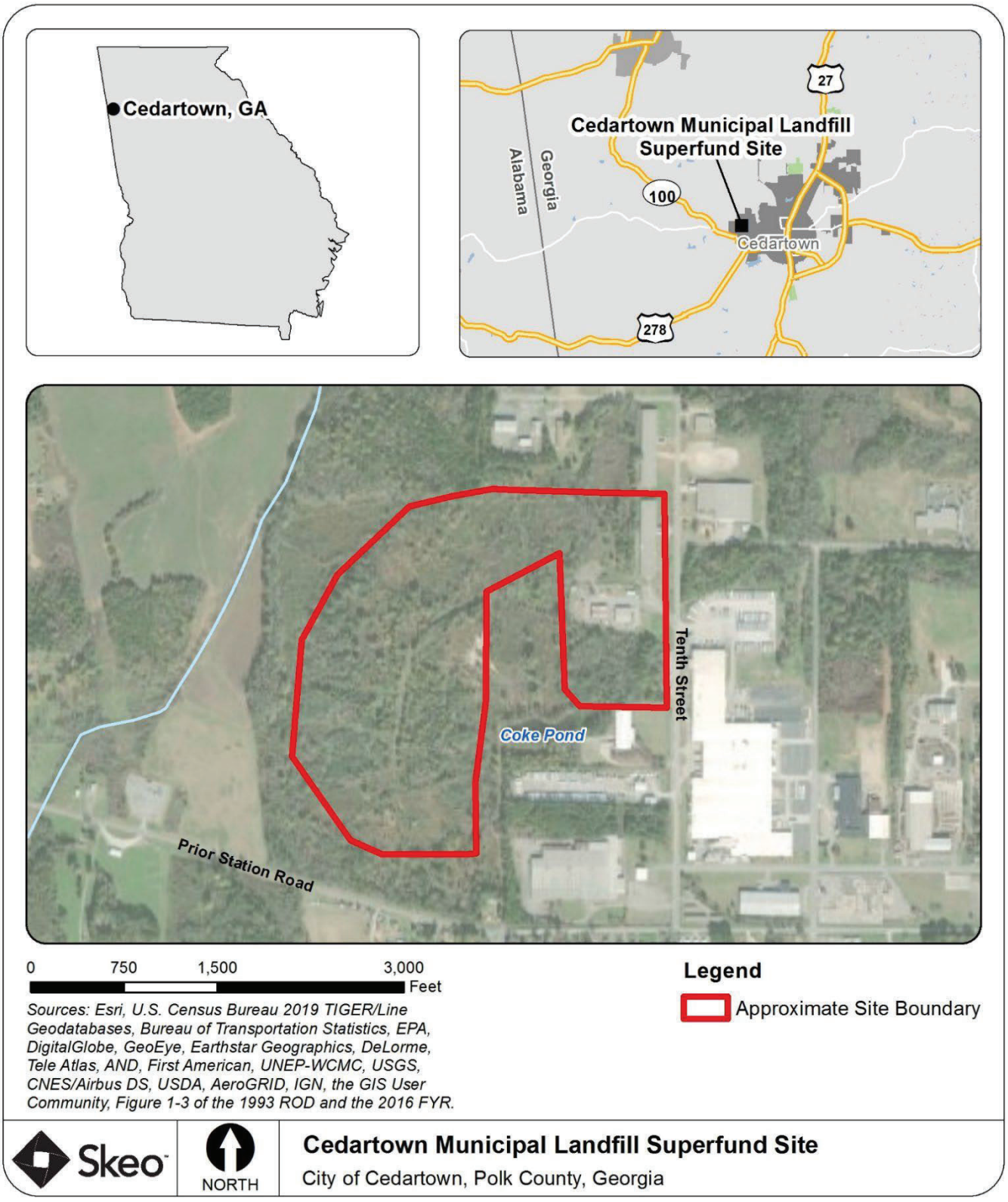


Figure 2: Map provided by Ed Guzman via email on October 6, 2022, showing approximate locations for three proposed buildings

A = 100 x 300 Stainless Steel Fabrication

B = 100 x 300 Carbon steel Fabrication

C = 75 x 150 Finishing Building

Original plot is Approx. 4 acres

Additional Plot Approx. 10 acres

Figure 3: Map provided by Ed Guzman via email on October 6, 2022, showing approximate desired for three proposed buildings

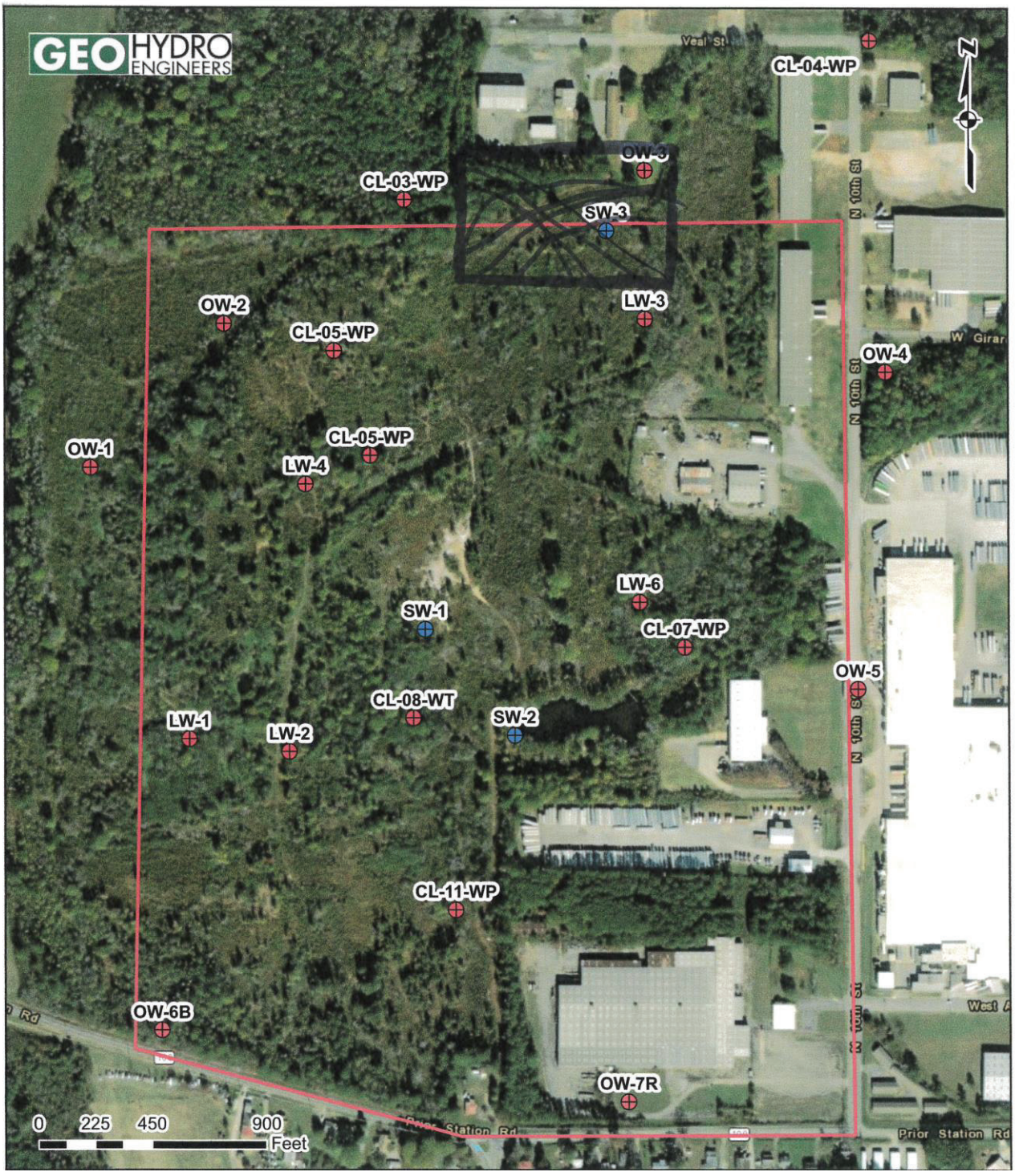


Figure 4: From Appendix H of the Fourth Five Year Review for the Cedartown Municipal Landfill Superfund Site, dated 9/27/2016, showing tax parcel 024-007

Figure 5: Figure 2 from the Fifth Five Year Review for the Cedartown Municipal Landfill Superfund Site, dated September 7, 2021

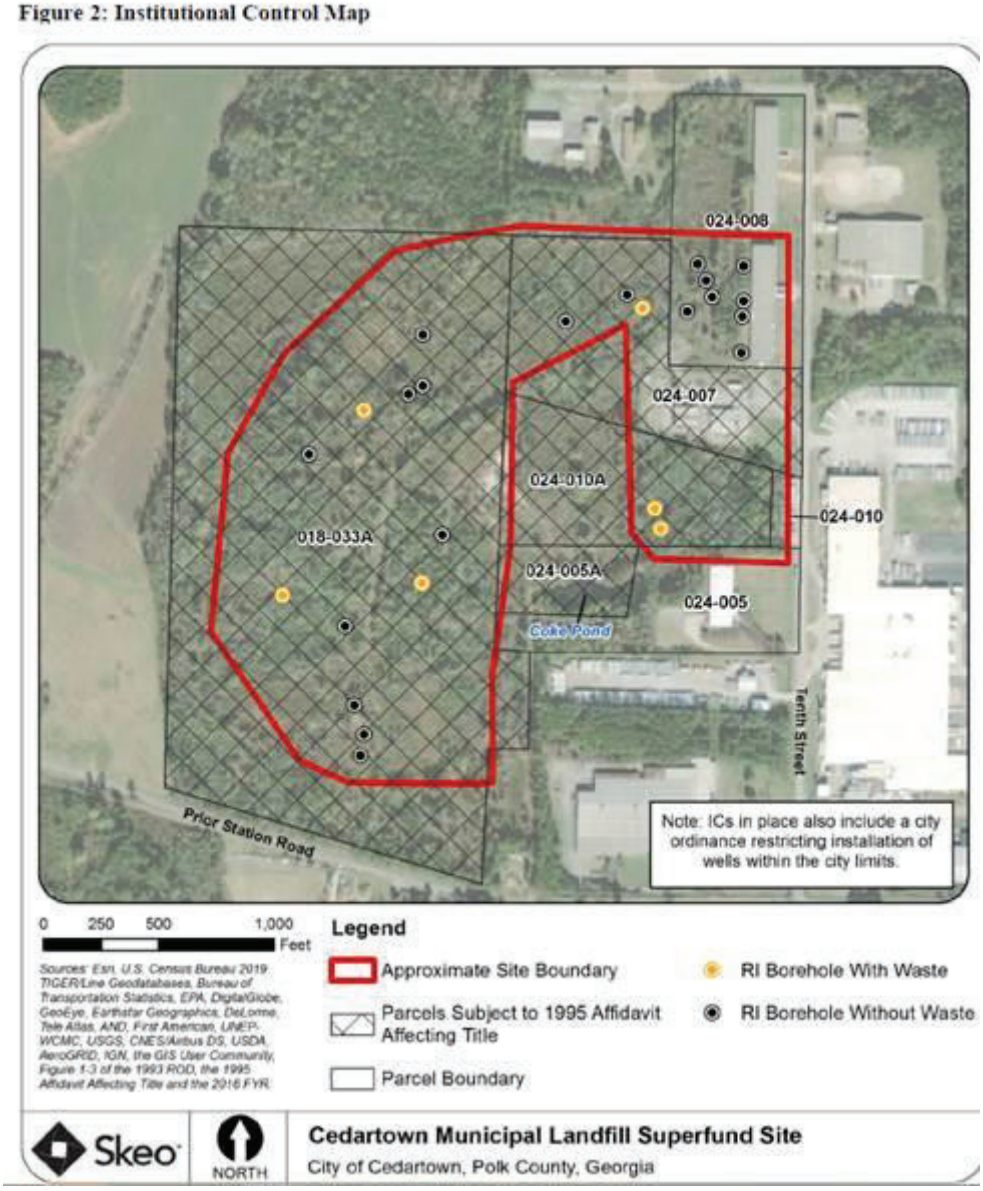


Figure 6: From the 1992 Remedial Investigation Report, dated June 1992

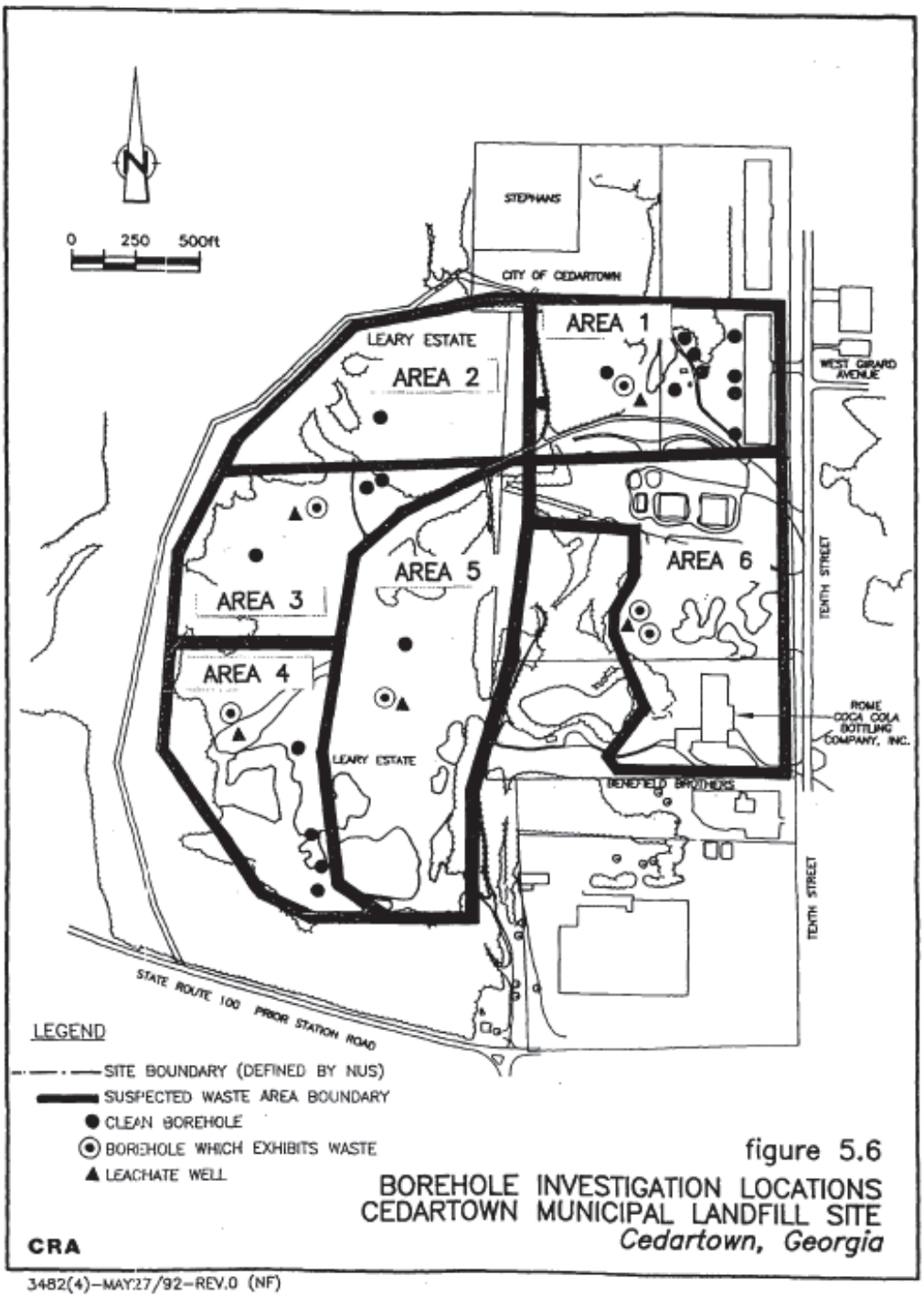
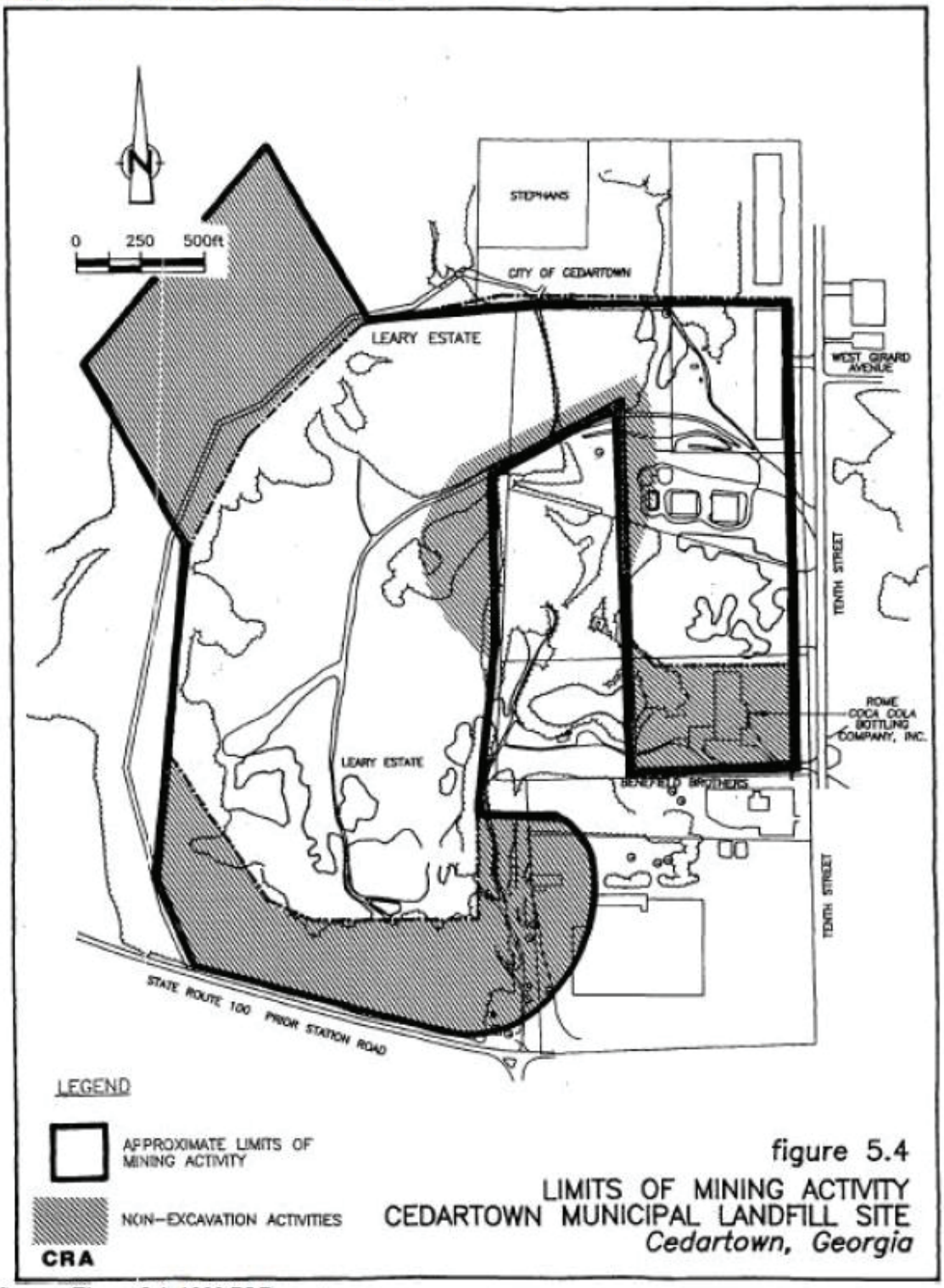


Figure 7: From Appendix D of the Fifth Five Year Review for the Cedartown Municipal Landfill Superfund Site, dated 9/27/2021

Figure D-2: Limits of Mining Activity



Source: Figure 5.4, 1993 RI Report

Figure 8: From the Fifth Five Year Review for the Cedartown Municipal Landfill Superfund Site, dated 9/27/2021, showing sample locations